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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	10/720,856	
Confirmation No.:	5181	
Art Unit:	3691	
Examiner:	Akintola, Olabode	**ELECTRONICALLY SUBMITTED ON:**
Application Title:	**CUSTOMER BILLING IN A COMMUNICATIONS NETWORK**	**DECEMBER 27, 2010**
First Named Applicant:	Timothy Roberts	
Filed:	11/24/2003	
Attorney Docket:	920476-95165	

REPLY BRIEF

MAIL STOP APPEAL BRIEF-PATENTS
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellant submits this Reply Brief in support of the appeal filed March 29, 2010 from the Examiner's final rejection of claim 1-20, which was set forth in the Final Office Action dated November 27, 2009 (hereinafter "Final Office Action), and in response to the Examiner's Answer dated October 27, 2010 (hereinafter "the Examiner's Answer").

ARGUMENT IN REPLY

Appellant submits this Reply Brief in response to the Examiner's Answer dated October 27, 2010. In this Reply Brief, Appellant has specifically addressed certain points raised in the Examiner's Answer concerning the sole ground of rejection. Appellant believes that some of the Examiner's arguments submitted in the Examiner's Answer may be considered new arguments by the Board. In such case, Appellant respectfully requests the latitude to respond to each of the Examiner's new arguments below.

I. REPLY REGARDING THE SOLE GROUND OF REJECTION.

Appellant maintains that the Ferguson fails to render claims 1-20 obvious. As such, Appellant respectfully requests that each of the Examiner's rejections discussed below be overruled.

A. Claims 1-7 and 11-16 are not rendered obvious in view of Ferguson

(i) Ferguson fails to disclose determining a respective billing tariff and a network user from a set of rules and each packet address

On Page 8, first paragraph, the Examiner asserts that:

> Fergusson explicitly teaches various examples of fees that can be levied against the user's account (col. 30, lines 20-58) under different scenarios. For example, Ferguson teaches levying users who access certain parts of an otherwise free online service. Ferguson teaches that a fee could be charged for users who wish to access full text search capabilities on back issues (see col. 30, lines 48-55). Examiner notes that the packet address in this case is the URL that points to the location of full text back issues using the http protocol (col. 4, lines 21-27, col. 6, lines 55-62). Therefore, it [would be] obvious from the description of Ferguson that the billing tariff is determined based on the website that [the] user wishes to access using the http protocol or URL and specified fees that will be levied on the user (co.. 29, lines 35-44).

Appellant respectfully disagrees. While Ferguson teaches levying fees on users who use particular services (e.g., searching of back issues), the Examiner erroneously concludes that such fee structure must be dependent upon the URL of the back issues. In this regard, the Examiner's analysis is flawed. First, Ferguson is simply silent as to what mechanic is to be used to levy the fee on the additional services. The Examiner proposes one solution (i.e., URL based), but many others exist. For example, the additional levy could be applied upon the user responding to a confirmation box or user agreement. Alternatively, the fee may be applied as a subscription based fee. Secondly, this section of Ferguson appears to be referring to an additional service (i.e., "searching" of back issues) rather than access to a particular online location. Access of a service is certainly less suited to the Examiner's proposed levy mechanism, and it is unclear how an offered service (especially if one were client-side based) would be traceable by URL as proposed by the Examiner.

In light of the above remarks, it appears the Examiner is arguing that Ferguson inherently teaches levying a fee based on the URL of the back issues. "Inherency . . .may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *Hansgirg v. Kemmer*, 102 F.2d 212, 40 U.S.P.Q. 665, 667 (C.C.P.A. 1939); *In re Oelrich and Divigard*, 666 F.2d 578, 212 U.S.P.Q. 323, 326 C.C.P.A. 1981). As clearly discussed above, it cannot be said that the levy for searching of back issues as disclosed in Ferguson **must** be based on a URL of the back issues. Rather, such a levy may be applied according to any one of a number of mechanisms as discussed above. As such, Ferguson does not inherently disclose the application of such a levy based on a URL.

(ii) Ferguson fails to disclose obtaining a coupon from an account database that represents an amount of credit

On page 8, second paragraph, the Examiner asserts that:

> Examiner broadly interprets the term "coupon" as quote or amount to be charged (see Applicant's specification on page 10, lines 21-22). Fergusson explicitly teaches a "coupon" (see Col. 31, lines 60 through col. 32, line 4, col. 18, lines 30-39). Examiner notes the description of "coupon" as explained in Applicant's remarks filed on 9/9/2009 on page 12 is not claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

Respectfully, properly defining a claim term based on Appellant's specification is not the same as reading limitations from the specification into the claims. The Examiner has asserted that a *broad* interpretation was applied to the claim term "coupon;" namely, a "quote or amount to be charged." However, such an interpretation is *overly* broad and is without regard to the teaching of Appellant's specification. Again, as described in Appellant's specification, use of the coupon facilitates the sale of services from multiple, disparate service provides (which Ferguson is not concerned with), charging of different rates depending on the contact (i.e., is the user simply browsing a website or downloading music), crediting of the provider (e.g., the provider is credited for the download but not the browsing), etc. A simplistic "amount to be charged" does not and simply cannot satisfy these requirements.

Rather, given the benefit of Appellant's specification, one of ordinary skill in the art would understand a "coupon" as used in Appellant's specification includes data or parameters in addition to the simple dollar amount of the credit/debit. For example, on page 10, lines 19-20, of Appellant's specification, a "coupon" includes destination and source data. Further, it should be appreciated that the "coupon" is temporally different from a present-time debit or credit. That

is, the user's account is not charged for the goods or services at the time of obtaining the coupon. Rather, the coupon represents a credit from which the goods or services are charged, which is subsequently correlated to the user's account. Conversely, in systems similar to Ferguson, the user's account is debited immediately upon the purchase of goods or services.

B. Claims 8-10 are not rendered obvious in view of Ferguson.

(i) Ferguson fails to disclose obtaining a coupon from an account database that represents an amount of credit

Claim 8 recites the step of "obtaining, by the server, a coupon from an account database, representing an amount of credit." As such, all of the arguments presented above in Section A(ii) in regard to claims 1-7 and 11-16 are equally applicable to claims 8-10 and are incorporated in their entirety into Appellant's reply relating to claims 8-10.

(ii) Ferguson fails to disclose applying a corresponding credit to an account held by a provider of those goods or services.

On page 9, seventh paragraph, the Examiner asserts that "Ferguson explicitly teaches that the online service may charge or pay a user or content provider as stated in step 240 (col. 8, lines 55 through col. 9, line 20, see also col. 29, lines 45-55)." While Ferguson does provide that a content provider may be paid, Appellant notes that Ferguson provides no elucidation in the relied-on sections as to the relationship between such payment and the action of the user. Claim 8 requires applying "a *corresponding* credit" to an account of the goods/service provider for the purchase of goods/services by the user. As such, although Ferguson may teach paying a content provider, Ferguson does not appear to teach crediting the content provider for the goods/services purchased by the user as recited in these claims. Yet

further, Appellant notes that paying the content provider of Ferguson is not synonymous with crediting an account of the content provider. While the former requires an immediate exchange of funds, the latter does not. Accordingly, for at least these reasons, Ferguson fails to disclose applying a corresponding credit to an account held by a provider of user-purchased goods or services.

C. Claims 17-20 are not rendered obvious in view of Ferguson.

(i) Ferguson fails to disclose a packet analyzer for determining from a set of rules and a packet address, a respective billing tariff and a network user account to be debited or credited for the transport of that packet

The Examiner supports the rejection of claims 17-20 in the Examiner's Answer based on the arguments presented in regard to claims 1-7 and 11-16. As such, all of the arguments presented above in Section A(i) in regard to claims 1-7 and 11-16 are equally applicable to claims 8-10 and are incorporated in their entirety into Appellant's reply relating to claims 17-20.

(ii) Ferguson fails to disclose means for obtaining a coupon from an account database, representing an amount of credit, and debiting a network user account by the amount of that credit, before allowing the transport of packet traffic for that network user.

The Examiner supports the rejection of claims 17-20 in the Examiner's Answer based on the arguments presented in regard to claims 1-7 and 11-16. As such, all of the arguments presented above in Section A(ii) in regard to claims 1-7 and 11-16 are equally applicable to claims 8-10 and are incorporated in their entirety into Appellant's reply relating to claims 17-20.

II. CONCLUSION

In view of the arguments presented above, Appellants submit that the three grounds of rejection are erroneous. On that basis, Appellants respectfully ask the Board to reverse the rejection of claims 1-20.

Respectfully submitted,

/Glen Kellett/

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